

**US Army Corps
of Engineers**

Philadelphia District

Wanamaker Building
100 Penn Square East
Philadelphia, PA 19107-3390
ATTN: CENAP-OP-R

Public Notice

Public Notice No.

CENAP-OP-R-2008-225-26

Date

APR 29 2008

Application No.

CENAP-OP-R-2008-225 (IP)

File No.

CENAP-OP-R-2008-159 (IP)

In Reply Refer to:

REGULATORY BRANCH

This District has received an application for a Department of the Army permit pursuant to Section 10 of the Rivers and Harbors Act of 1899 (33 U.S.C. 403) and Section 404 of the Clean Water Act (33 U.S.C. 1344).

The purpose of this notice is to solicit comments and recommendations from the public concerning issuance of a Department of the Army permit for the work described below.

APPLICANT: DDNREC, Division of Soil & Water Conservation

AGENT: DDNREC, Division of Soil & Water Conservation

WATERWAY: Pepper Creek & Vines Creek

LOCATION: Pepper & Vines Creek, Dagsboro, Sussex County, Delaware

ACTIVITY: As depicted on the attached drawing plans, five sheets dated January 2008 & June 2005, Delaware Department of Natural Resources and Environmental Control (DDNREC), Division of Soil and Water Conservation, has applied for a renewed 10 year maintenance dredging permit to perform maintenance dredging activities, via hydraulic method, in the previously established navigation channels in Pepper Creek and Vines Creek near the town of Dagsboro, Sussex County, Delaware.

Pepper Creek proposed maintenance dredging was previously authorized by Department of the Army Permit NAPOP-R-86-15631-1.

Vines Creek proposed maintenance dredging was previously authorized by Department of the Army Permit CENAP-OP-R-199400007-24.

No new dredging work is being proposed, all work described below was previously authorized by the Department of the Army and the Delaware Department of Natural Resources and Environmental Control.

The project will most likely take two dredging seasons to complete (September 1-December 31.)

The Pepper Creek portion of the project will involve dredging from the federal channel marker "1" at the mouth of the creek, upstream, to federal channel marker "14", a distance of approximately 18,500 feet (3.5 miles). The channel will be dredged 60 feet wide and to a depth of 4.0 feet below mean low water. Approximately 60,000 cubic yards of material, primarily silt and clay, will be dredged from the channel as part of this project. Excavated material will be deposited in two previously constructed and used upland confined disposal facilities (CDF). CDF "A" is a three acre site located near the mouth of the creek on land owned by the Department's Division of Fish and Wildlife. CDF "B" is a 5 acre site located near the upstream project limits on land owned by Mr. Wayne Cropper. The Department's Division of Soil and Water Conservation has a long standing lease agreement with Mr. Cropper for the use of this property for dredged material disposal purposes.

The Vines Creek portion of the project will involve dredging from the confluence of the creek channel with the Pepper Creek channel at federal channel marker "5", upstream, for a distance of approximately 1,000 feet. The channel will be dredged 60 feet wide and to a depth of 4.0 feet below mean low water. An additional access channel with the same depth will be dredged approximately 500 feet long and 35 feet wide from the main channel to the Vines Creek Marina. Approximately 7,200 cubic yards of material, primarily silt and clay, will be dredged from the channel as part of this project. Excavated material will be deposited in CDF "A" as referenced above.

PURPOSE: The stated purpose of this activity is to improve navigation in Pepper and Vines Creeks for the recreational boating public.

A preliminary review of this application indicates that the proposed work would not affect listed species or their critical habitat pursuant to Section 7 of the Endangered Species Act as amended. As the evaluation of this application continues, additional information may become available which could modify this preliminary determination.

The decision whether to issue a permit will be based on an evaluation of the activity's probable impact including its cumulative impacts on the public interest. The decision will reflect the national concern for both protection and utilization of important resources. The benefits which reasonably may be expected to accrue from the work must be balanced against its reasonably foreseeable detriments.

All factors which may be relevant to the work will be considered including the cumulative effects thereof; among those are conservation, economics, aesthetics, general environmental concerns, wetlands, cultural values, fish and wildlife values, flood hazards, flood plain values, land use, navigation, shore erosion and accretion, recreation, water supply and conservation, water quality, energy needs, safety, food and fiber production, mineral needs and welfare of the people. A Department of the Army permit will be granted unless the District Engineer determines that it would be contrary to the public interest.

The Corps of Engineers is soliciting comments from the public; Federal, State, and local agencies and officials; Indian Tribes; and other interested parties in order to consider and evaluate the impacts of this proposed activity. Any comments received will be considered by the Corps of Engineers to determine whether to issue, modify, condition or deny a permit for this proposal. To make this decision, comments are used to assess impacts on endangered species, historic properties, water quality, general environmental effects, and the other public interest factors listed above. Comments are used in the preparation of an Environmental Assessment and/or an Environmental Impact Statement pursuant to the National Environmental Policy Act. Comments are also used to determine the need for a public hearing and to determine the overall public interest of the proposed activity.

Comments on the proposed work should be submitted, in writing, within 30 days to the District Engineer, U.S. Army Corps of Engineers, Philadelphia District, Wanamaker Building, 100 Penn Square East, Philadelphia, Pennsylvania 19107-3390.

Review of the National Register of Historic Places indicates that no registered properties or properties listed as eligible for inclusion therein are located within the permit area of the work.

Essential Fish Habitat Assessment: The Magnuson-Stevens Fishery Conservation and Management Act, as amended by the Sustainable Fisheries Act of 1996 (public law 104-267), requires all federal agencies to consult with the National Marine Fisheries Service on all actions or proposed actions, permitted, funded, or undertaken by the agency that may adversely effect essential fish habitat (EFH).

Effects of the Project on Essential Fish Habitat (EFH): The project is located in Essential Fish Habitat identified on Sheet 89 of Guide to Essential Fish Habitat Designations in the Northeastern United States, Volume IV: New Jersey and Delaware, March 1999. The following managed species of fish have been listed in the above referenced guide as occurring in the vicinity of the project:

Bluefish (Pomatomus saltatrix), summer flounder (Paralichthys dentatus), scup (Stenotomus chrysops), black sea bass (Centropristus striata), spiny dogfish (Squalus acanthias), tilefish (Lopholatilus chamaeleonticeps), whiting (Merluccius bilinearis), surf clam (Spisula solidissima), ocean quahog (Artica islandica), long finned squid (Loligo pealei), short finned squid (Illex illecebrosus), Atlantic butterfish (Peprilus triacanthus), Atlantic mackerel (Scomber scombrus), king mackerel (Scomberomorus cavalla), Spanish mackerel (Scomberomorus maculatus), Atlantic cod (Gadus morhua), witch flounder (Glyptocephalus cynoglossus), American plaice (Hippoglossoides platessoides), yellowtail flounder (Pleuronectes ferrugineus), ocean pout (Macrozoarces americanus), haddock (Melanogrammus aeglefinus), silver hake (Merluccius bilinearis), pollock (Pollachius virens), winter flounder (Pleuronectes americanus), summer flounder (Paralichthys dentatus),

windowpane flounder (Scophthalmus aquosus), redfish (Sebastes fasciatus), red hake (Urophycis chuss), white hake (Urophycis tenuis), Atlantic halibut (Hippoglossus hippoglossus), offshore hake (Merluccius albidus), Atlantic sea scallop (Placopecten magellanicus), Atlantic sea herring (Clupea harengus), Atlantic salmon (Salmo salar), monkfish (Lophius americanus), swordfish (Xiphias gladius), bluefin tuna (Thunnus rhynnus), bigeye tuna (Thunnus obesus), albacore (Thunnus alalunga), yellowfin tuna (Thunnus albacares), skipjack tuna (Katsuwonus pelamus), cobia (Rachycentron canadum), blue marlin (Makaira nigricans), white marlin (Tetrapturus albidus); and the following shark species: tiger (Galeocerdo cuvieri), scalloped hammerhead (Sphyrna lewini), sandbar (Carcharhinus obscurus), sand tiger (Odontaspis taurus), dusky (Carcharhinus plumbeus), basking (Cetorhinus maximus), silky (Carcharhinus falciformis), white (Carcharodon carcharias), Atlantic sharpnose (Rhizoprionodon terraenovae), Atlantic angel (Squatina dumerili), shortfin mako (Isurus oxyrinchus), longfin mako (Isurus paucus), porbeagle (Lamna nasus), thresher (Alopias vulpinus), and blue (Prionace glauca).

Analysis of the Effects: The proposed dredging work would occur in waters which are subject to relatively high velocities within the established maintenance channels and are exposed to high seasonal boat traffic. Such an area is an unlikely spawning or nursery area for the managed species. Consequently, concentrations of the sessile life stages (eggs and larvae) of the listed species are not expected to be within the work area. The pelagic adults and juveniles of the listed species are highly mobile and capable of avoiding impacts associated with the work. No known Essential Fish Habitat (EFH) is known in the proposed maintenance areas. Evaluation of the effect of the work is still being reviewed at the present time.

In accordance with Section 307(c) of the Coastal Zone Management Act of 1972, applicants for Federal Licenses or Permits to conduct an activity affecting land or water uses in a State's coastal zone must provide certification that the activity complies with the State's Coastal Zone Management Program. The applicant has stated that the proposed activity complies with and will be conducted in a manner that is consistent with the approved State Coastal Zone Management (CZM) Program. No permit will be issued until the State has concurred with the applicant's certification or has waived its right to do so. Comments concerning the impact of the proposed and/or existing activity on the State's coastal zone should be sent to this office, with a copy to the State's Office of Coastal Zone Management.

In accordance with Section 401 of the Clean Water Act, a Water Quality Certificate is necessary from the State government in which the work is located. Any comments concerning the work described above which relate to Water Quality considerations should be sent to this office with a copy to the State.

The evaluation of the impact of the work described above on the public interest will include application of the guidelines promulgated by the Administrator, U.S. Environmental Protection Agency, under authority of Section 404(b) of the Clean Water Act.

Any person may request, in writing, to the District Engineer, within the comment period specified in this notice, that a public hearing be held to consider this application. Requests for a public hearing shall state in writing, with particularity, the reasons for holding a public hearing.

Additional information concerning this permit application may be obtained by calling Kevin E. Faust at 302-736-9763 between the hours of 1:00 and 3:30 p.m. or writing this office at the above address.



Frank J. Cianfrani
Chief, Regulatory Branch

Warwick
(24)

Millsboro

Riverview

Ferry Landing

(20)

Sandy Beach

Kerseys Evergreen Acres

331

113

Dagsboro

(28)

Holiday Estates

DuPont Blvd

Cueilen Acres
Omar

Frankford

Orchard Manor
Oak Orchard
Gull Point



Blackwater Beach
West Beach
Fairway Villas

Sandy Landing

Thatchers Landing

Edgewood Manor

Clarksville

Boyers Village

Sherwood Acres

Pine Manor Estates

PROJECT AREA

Bayard

Spring Brook Forest

384

(17)

2.0 km
1.5 mi
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Indian
River Bay

Quillens

Bayside H

Cedar Shores

Holly Ridge

Murray Estates

Banks Harbor Estates

White Creek Manor

Denton Mills

Ocean View

Pine Grove

Meyle Estates

Foxtire Meadows

363

455-240-0000
1-800-455-2400

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PEPPER CREEK AND
VINES CREEK DREDGING PROJECT
COUNTY OF SUSSEX
STATE: DELAWARE
APPLICATION BY: DEL. DEPT. OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
DIVISION OF SOIL &
WATER CONSERVATION
DATE: JANUARY, 2008 DATE: MLW
PAGE 1 OF 5

LOCATION MAP

NOTES:

PURPOSE: CHANNEL RESTORATION

DATUM: MEAN LOW WATER

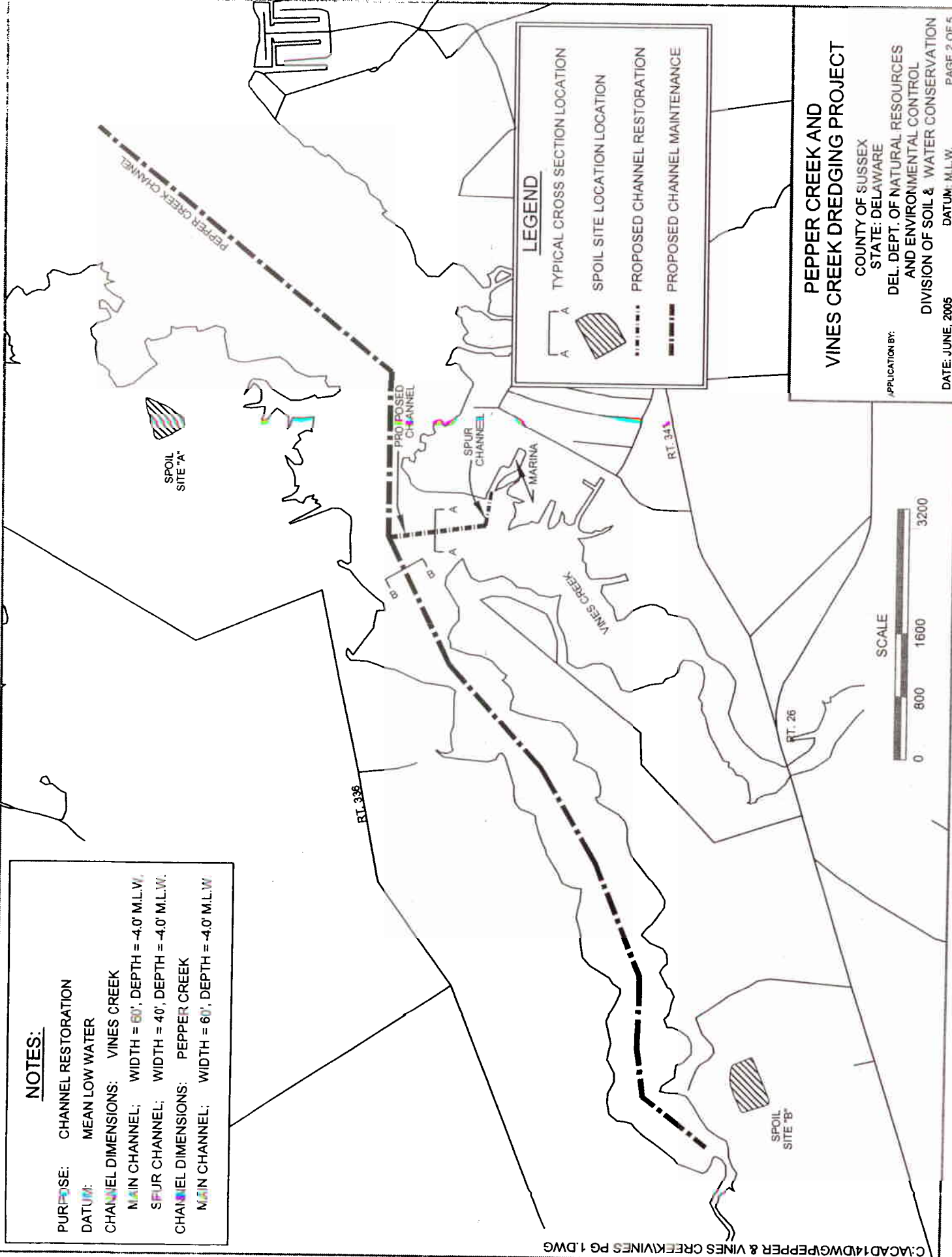
CHANNEL DIMENSIONS: VINES CREEK

MAIN CHANNEL; WIDTH = 60', DEPTH = -4.0' M.L.W.

SPUR CHANNEL; WIDTH = 40', DEPTH = -4.0' M.L.W.

CHANNEL DIMENSIONS: PEPPER CREEK

MAIN CHANNEL; WIDTH = 60', DEPTH = -4.0' M.L.W.



**PEPPER CREEK AND
VINES CREEK DREDGING PROJECT**

COUNTY OF SUSSEX
STATE: DELAWARE

APPLICATION BY:

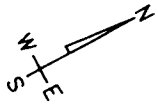
DEL. DEPT. OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL

DIVISION OF SOIL & WATER CONSERVATION

DATE: JUNE, 2005

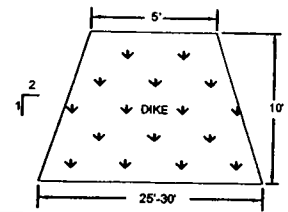
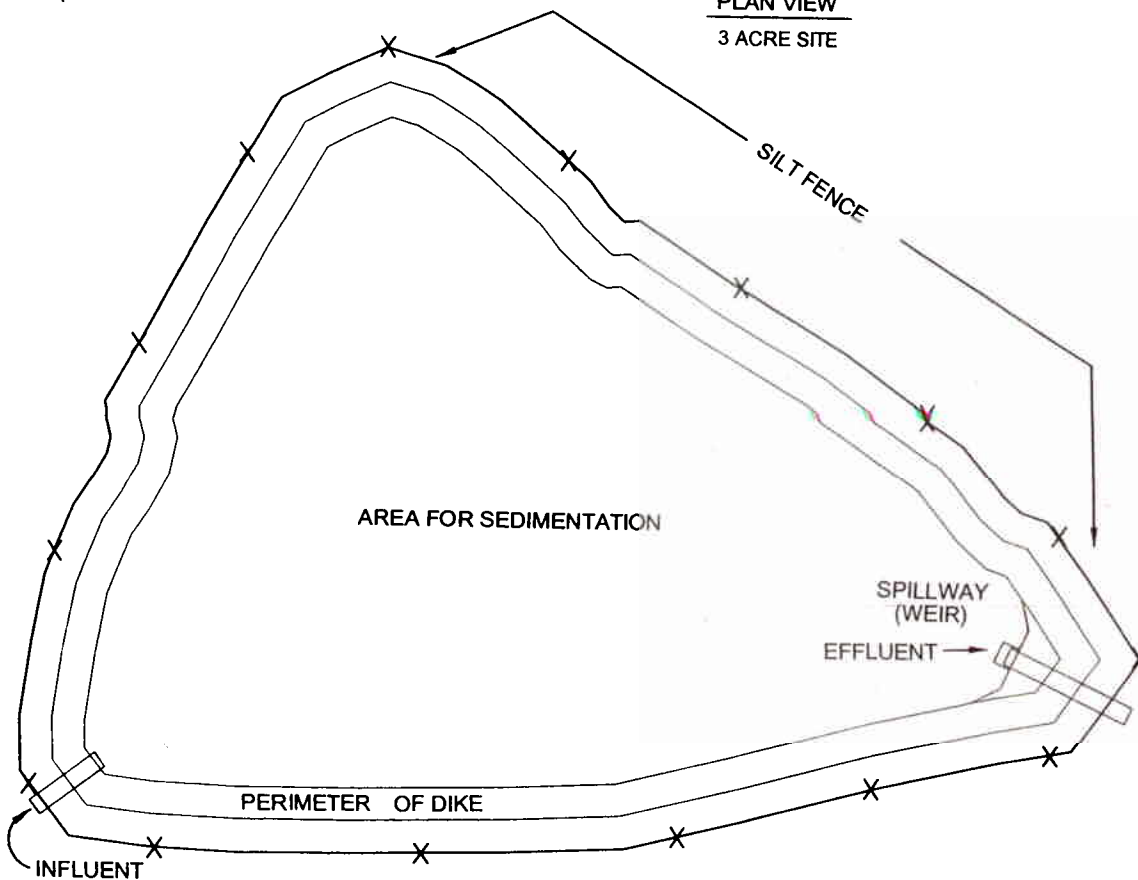
DATUM: M.L.W.

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TYPICAL CONFINED DISPOSAL FACILITY "A" DESIGN

(NO SCALE)
PLAN VIEW
3 ACRE SITE

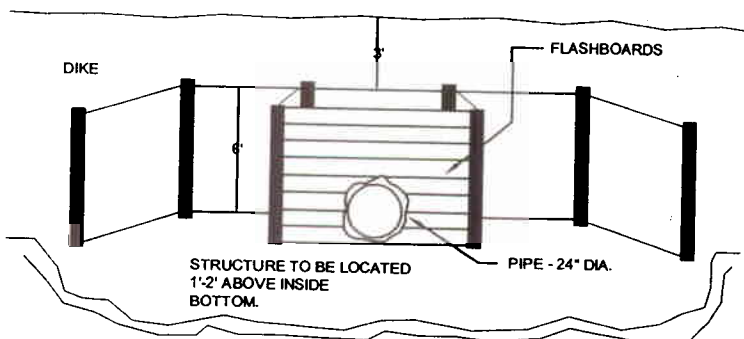


CROSS SECTION
OF DIKE

NOTES:
EROSION AND SEDIMENT CONTROL MEASURES (E.G. SILT FENCE, SEEDING OF DIKE WALLS) WILL BE IMPLEMENTED AT EACH FACILITY IN COMPLIANCE WITH THE DELAWARE SEDIMENT AND STORM WATER REGULATIONS DATED 7/1/91.

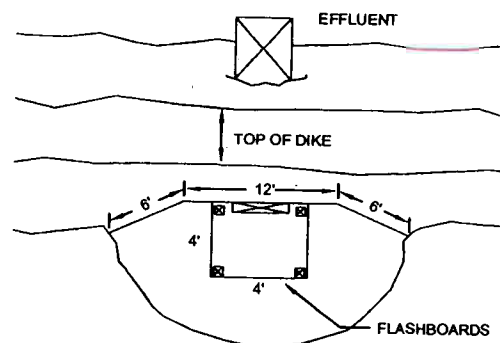
SPILLWAY (WEIR) DESIGN

PLAN VIEW



FLASHBOARDS WILL BE ADDED AS WATER LEVEL RISES.

TOP VIEW



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VINES CREEK DREDGING PROJECT**
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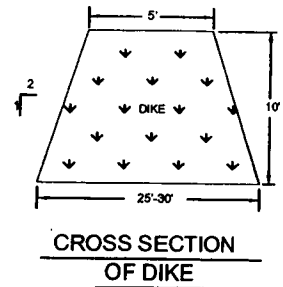
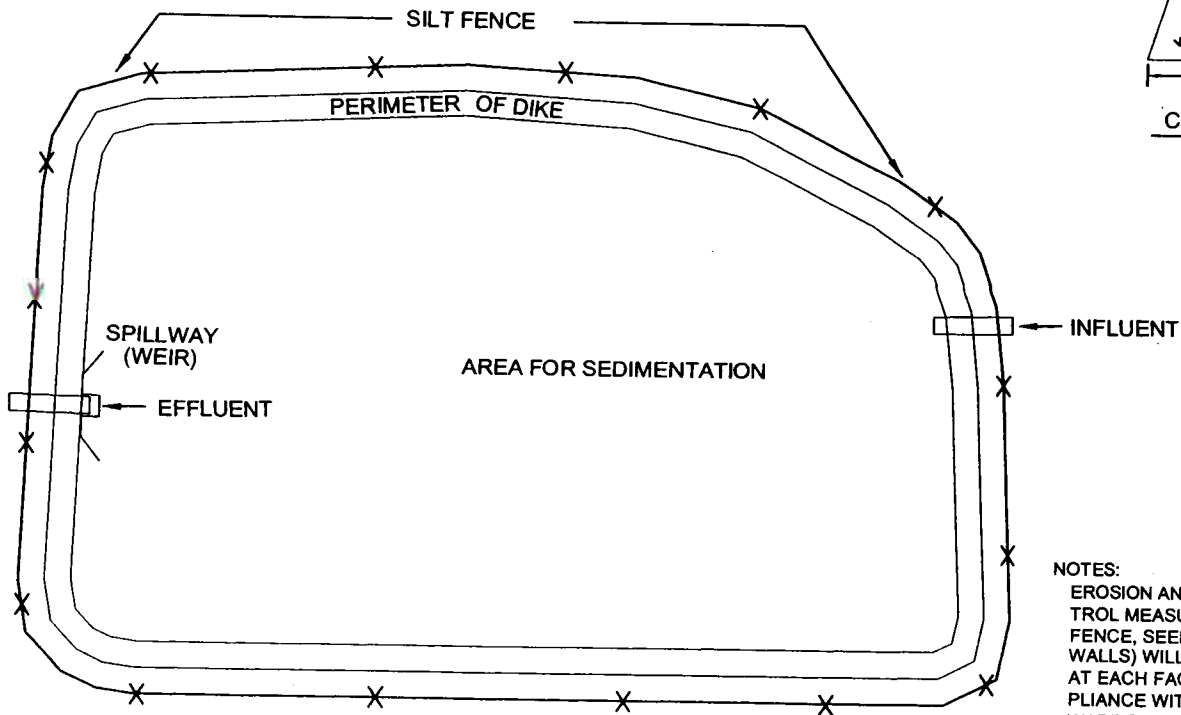
PAGE 3 OF 5

TYPICAL CONFINED DISPOSAL FACILITY "B" DESIGN

(NO SCALE)

PLAN VIEW

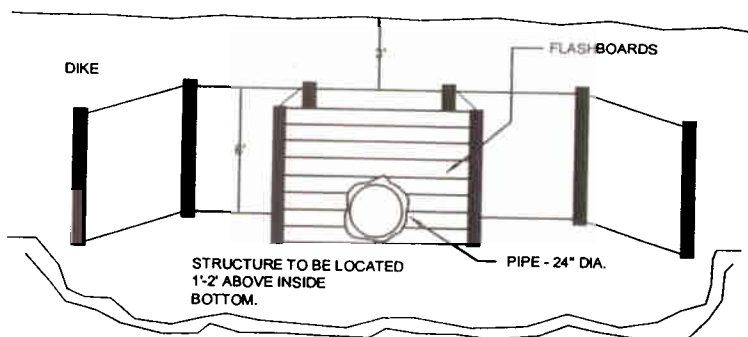
5 ACRE SITE



NOTES:
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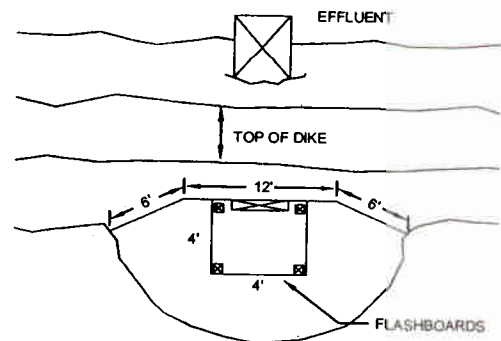
SPILLWAY (WEIR) DESIGN

PLAN VIEW



FLASHBOARDS WILL BE ADDED AS WATER LEVEL RISES.

TOP VIEW



C:\ACAD14\DWG\PEPPER & VINES CREEK\VINES PG 1.DWG

PEPPER CREEK AND
VINES CREEK DREDGING PROJECT

COUNTY OF SUSSEX
STATE: DELAWARE

APPLICATION BY: DEL. DEPT. OF NATURAL RESOURCES
AND ENVIRONMENTAL CONTROL
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PEPPER CREEK AND VINES CREEK DREDGING PROJECT

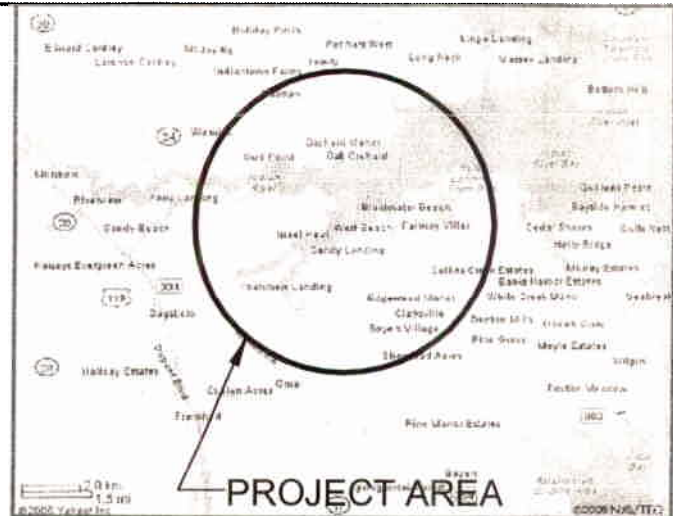
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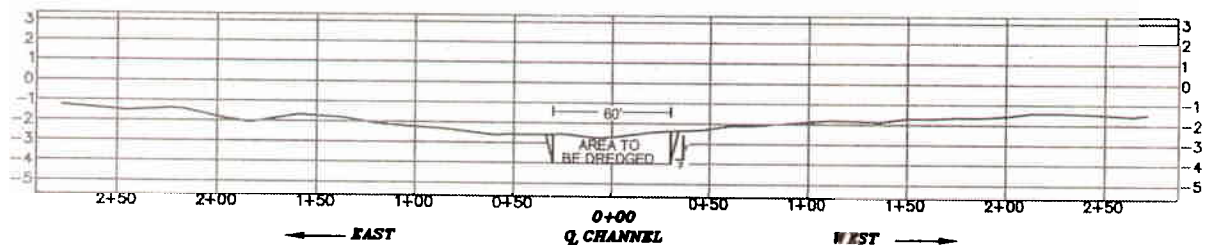
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LOCATION MAP

TYPICAL CROSS-SECTIONS

CROSS-SECTION A-A



CROSS-SECTION B-B

